


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-89-C - ORDER NO. 2003-218

APRIL 3, 2003

IN RE: Tariff Filing by BellSouth Telecommunications, Inc. to Serve Customers who are Abandoned by their Local Exchange Service Provider (Tariff No. 2003-6)) ORDER DISMISSING) PETITION AND) ESTABLISHING) GENERIC PROCEEDING
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This matter comes before the Public Service Commission of South Carolina (the Commission) for consideration of BellSouth Telecommunications, Inc.'s (BellSouth's) Motion to Dismiss the AT&T Communications of the Southern States, LLC's (AT&T's) Petition for Suspension and Investigation of BellSouth's Tariff No. 2003-6. Because of the reasoning noted below, we grant BellSouth's Motion and establish a generic docket regarding emergency-type services. A history of this matter would be helpful in explaining this Commission's ruling.

On January 9, 2003, BellSouth filed a tariff which was denominated Tariff No. 2003-6. This tariff was called an Emergency Service Continuity Plan. Under the terms of the tariff, once the Commission, either upon Petition by the company or upon its own Motion, determines that a local service company has abandoned service, BellSouth will provide service as is for 14 days. If an end user has not selected a new provider during this 14 day period, BellSouth will continue, at the end of the period, to provide soft dial tone (911 only). If, after 28 days, the end user has not selected a provider, dial tone will

be interrupted. As per the tariff, notice will be provided by notification to the media or through an automated message that a new provider must be selected by a specific date. BellSouth's proposal states that the new provider would be billed for the service provided to the end user during the interim period between abandonment of service and selection of a new provider. It should be noted that this tariff became effective on January 23, 2003 under the language in S.C. Code Ann. Section 58-9-576(6)(Supp. 2002) which makes new tariff filings effective after 14 days.

AT&T subsequently filed a Petition for Suspension and Investigation of the tariff, and raised various issues. The issues are related to BellSouth's use of customer records, the fact that BellSouth's notice should include impartial instructions as to how to select a new provider and that language should be included that the customer's existing long distance carrier will remain intact prior to selecting a new provider, the recommendation that the initial period be 30 days and not 14 days, and the fact that the new carrier is responsible for the services provided by BellSouth during the interim period. AT&T further proposes a generic rulemaking regarding emergency-type service, making all incumbent local exchange carriers (LECs) participants. That Company also notes that other states have initiated various procedures to investigate these questions, with formats ranging from workshops to rulemaking proceedings to simple comment periods.

BellSouth moved to dismiss AT&T's Petition. BellSouth noted that the tariff comes into play only if the Commission determines that an emergency justifying the use of the tariff exists. BellSouth points out, among other things, that the assurance of uninterrupted service provided by the tariff, during what the Commission determines to

constitute an emergency, clearly is beneficial to end users. According to BellSouth, if the tariff was suspended, there would be no defined process by which end users can continue receiving uninterrupted telecommunications services when a local service provider discontinues service in an emergency situation, which BellSouth states is detrimental to end users. BellSouth goes on to argue that AT&T's various arguments are without merit.

AT&T also replied to BellSouth's Motion. AT&T states that it does not oppose the concept of an emergency services continuity plan that would afford some degree of assurance for continued service to end-users impacted by a competitive local exchange carrier's (CLEC's) exit from the local market. AT&T further explains that such plans could provide necessary protection to customers that may find themselves without service as the result of their CLEC's demise. AT&T does state, however, that such plans may be crafted in such a way as to create an unjust and unwarranted competitive advantage for the underlying service provider to the detriment of other competitive carriers and to the development of competition in general. AT&T asserts that the BellSouth tariff has several shortcomings that leave the door open for potential future abuse. In order to avoid future abuse, AT&T states that this Commission should initiate a proceeding to investigate the conditions under which emergency telecommunications services should be provided in South Carolina and adopt rules or guidelines applicable to all incumbent local exchange companies and competitive local exchange companies. AT&T then goes on to dispute many of the allegations in BellSouth's Motion to Dismiss.

Upon due consideration of this matter, we would note that BellSouth's Tariff No. 2003-6 is already effective under the operation of law. We decline to suspend the tariff at

this time. We do not think that AT&T has stated sufficient grounds for such suspension, especially when such a tariff does have certain advantages to end users who may become potential victims of a CLEC's demise, and be left without service. Further, because we are declining to suspend the tariff, we grant BellSouth's Motion to dismiss AT&T's Petition.

We will state, however, that AT&T has raised some legitimate grounds for further investigation of the general concept of an emergency services continuity plan. We are interested in pursuing in general the concept that such plans not create an unjust and unwarranted competitive advantage for the provider of the emergency services, and, in general, some of the concepts noted by AT&T in its various documents submitted in this proceeding. As AT&T has also stated, some of the other states are investigating the concept and its ramifications via different types of proceedings.

Accordingly, we hereby establish a generic docket to investigate emergency services continuity plans in general and their various ramifications. The Commission Staff will issue a Notice in the proceeding, and various interested parties may intervene in the proceeding as they deem appropriate.

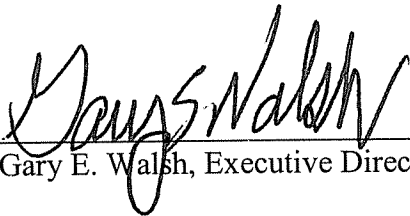
This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director

(SEAL)